

The Pocahontas Times.

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MARLINTON, POCAHONTAS COUNTY WEST VIRGINIA, SEPTEMBER 15, 1921

\$1.00 A YEAR IN ADVANCE

MINGO TRIAL

(From Williamson Daily News)

Emory Adkinson, lumber inspector
Fred Wade, farmer.
Clark Young, farmer.
Uriah Kramer, concrete bridge builder.
Sandy Auldridge, veterinarian and farmer.
Gilbert Wade, farmer and lumberman.
A. W. Lightner, blacksmith.
Frank Moore, farmer.
Sterling McElwee, farmer.
C. P. McNeill, farmer and truckman.
Cecil Sheets, sawyer.
Frank Rock, cook.

This is the personnel of the jury selected in circuit court this morning for the trial of Beece Chambers and Fred Burgraff, charged with the murder of J. W. Ferguson, Baldwin-Felts detective, in the Matewan shooting of May 1919.

The introduction of testimony will begin with the opening of the afternoon session of court Monday at 1 o'clock.

Eight names were stricken by peremptory challenges of state and defense from the list of 20 of those who filled the box at the opening of court this morning at 9 o'clock, and were excused from service. They are Paul Overholt, I. B. Beard, T. S. Dulaney, Strickler Hoover, Frank King, J. Buckley, Elbert N. LaRue and Mead Arbogast.

Two men were held for use in the event of an emergency. They are Milfin Gilmore and Charles Ray.

The postponement of trial until Monday as a result of the death of Dr. J. A. Saunders, of Herndon, Wyoming county, in an automobile accident near that place last night. Dr. Saunders was a nephew of former Judge J. M. Saunders, one of counsel for the state and also a brother-in-law of Judge James Damron, another of counsel for the state.

There was evidence of general satisfaction with the jury as a whole after the 12 men had been sworn for the trial of the case. Court attaches believed the panel very satisfactory to counsel for both state and defense.

The defendants were both in good spirits throughout the routine of motions, examinations, questionings and objections yesterday and today, and seemed to feel that they were going to have a square deal at the hands of their peers.

All the jurors are from Pocahontas county. They were summoned under the new enactment providing for calling jurors from another county when it appears impossible to secure an impartial jury in the county in which an offense has been committed.

The constitutionality of this law was attacked by John J. Coniff, of counsel for the defense at the morning session of court yesterday. Five or six points were set out in Mr. Coniff's motion to squash the order summoning the Pocahontas men to Mingo county. His motion was overruled, and exceptions were filed to the ruling of the court.

Seven of the 12 men who will try this case are farmers. Three of these six have other lines one being a veterinarian, another being a truckman, and a third being also a lumberman.

Pocahontas is a farming and lumber county. The men of that county are stalwart, hardy sons of the Alleghany foothills, and a combination of the mountaineer and yeoman types. The county of Pocahontas has a singularly fine record as one which lawlessness is at a minimum. Those of its citizens who engage in the work of cutting and sawing timber lead a life akin to that of the pioneers who came across the mountains to western Virginia in early times. They

camping at the mill sites for long periods of time and cut themselves off temporarily from the more thickly populated settlements.

Those engaged in farming live near the towns which lie along the Western Maryland and Chesapeake & Ohio Railroads, where there are convenient shipping facilities and good markets.

Marlinton is the county seat. Bartow, Buckeye, Cass, Clover Lick, Durbin, Hillsboro, Huntersville, Millpoint, Minnehaha Springs, Raywood, Seebert and Woodrow are important towns.

Durbin is the junction point of the Elkins-Durbin branch of the Western Maryland railroad and the Greenbrier branch of the Chesapeake & Ohio, and is one of the county's most important shipping points.

Marlinton has two newspapers, the Times and the Journal. It has one state bank, the First National Bank and the Bank of Marlinton.

Durbin and Hillsboro each have a state bank—the bank of Durbin and the bank of Hillsboro.

Minnehaha Springs is a small but popular summer resort.

While Pocahontas is one of the larger counties of the state, it has only four magisterial districts—Greenbank, Edray, Huntersville and Little Levels. Two justices and two constables find it easy to enforce the law in each of these ballwicks.

A remarkable fact brought out in the examination of the talesmen drawn from Pocahontas county is that nearly every man examined proved to be a reader of one of the county newspapers. The Pocahontas Times, edited by Calvin W. Price, is a Democratic newspaper published at Marlinton for the last 40 years, while the Journal, Republican, also published at Marlinton, has been in existence for the last 11 years.

Pocahontas is an old Virginia county, formed in 1821 from parts of Bath, Pendleton and Randolph counties. It was named from the Indian princess Pocahontas, whose name is inseparably linked with and of the first beautiful romances of American history.

The town of Marlinton has an altitude of 2,131 feet, making the elevation nearly 1,500 feet greater than that of Mingo county at Williamson.

A corps of out of town stenographers and typists are here handling a report of the proceedings in the "second trigger trial." There are M. L. Davis, Captain Reuel Sherwood, Boyd Cain, Alva Moore, Mr. Haynes, Mr. Ford and Miss Moore. All are experts in their work, and the words are hadly out of the mouths of court, counsel, jurors and others until they are transcribed and back on the tables for the convenience of counsel.

Following are thumbnail sketches of the men summoned from Pocahontas county to serve in the Chambers-Burgraff trial, now beginning in the circuit court of Mingo County, as obtained from hearing their examination by the court with reference to their qualifications.

Clark Young, 28, lives near Marlinton and is a farmer. He said he knew about the case. He was not opposed to capital punishment. He knew only what he had read in the newspapers about the Matewan case, and had not made up an opinion. He had no connection with the union miners or the Baldwin-Felts detectives or bias for or against either. He had no occasion to be interested one way or another, he said, and could give a fair and impartial verdict. He was not related to anyone connected with the case. He had never served as a juror. Had been employed and before that as a telephone line man. Had not discussed the case. He had seen accounts of the shooting but not the trial, and had no well developed opinions that could not be removed by evidence. Was not

in the state at the time of the "trigger trial" at the January term of court, being at that time employed on an orange plantation in Florida.

Strickler Hoover is 41 and lives at Huntersville. He is married. Has worked in the woods for the last ten years. Said he was not opposed to capital punishment: was not related in any way to anyone connected with the case, had no connection with the miners, union or any detective agency and was not biased either for or against these interests or against any coal concern. Had never worked where there was a "regular union." Had been asked to join a union, but had not done so. Stated emphatically that he was "for right and justice between man and man." Had not read account of trouble at Matewan or the trial following it. Was a subscriber to a county newspaper, but was away from home much of the time and did not get a chance to read it. Had not talked about the shooting with anyone. Was employed as day laborer and engaged in making skidding roads for logs. Had never served on a jury.

Frank King is sergeant of the town of Marlinton and manager of the municipally owned water and electric company. Is 39 years old and married. Has been 28 years at Marlinton. Had read the newspaper reports but had experienced no feeling of bias. Was not related to any of the persons concerned in the case. Said he was not opposed to unions, but could not say that he approved of them. "As I understand it," he said, "if a man wants to work, he cannot do so unless he belongs to a union, and I am opposed to that, but if a man wants to join a union that is his business." He said, however, he would not let that influence him in serving as a juror. He had followed pretty closely the accounts of the recent Matewan trial in the newspapers, but had not been influenced or biased by the reports as published. This he said was his first jury service.

Mead Arbogast, 28, lives at Marlinton and is married. Had been in the lumber business three years, operating in Pocahontas county. Was not opposed to capital punishment. Had read the newspaper accounts of the Matewan shooting and subsequent trial and had formed and expressed some opinions, but these opinions, he said, were not such that they could not be removed by evidence. Said he sold some mine supplies to the Consolidation Coal Co.—such as props and crossies. Was sensible of no opinion at this time, whatever he might have thought after reading accounts of the shooting and the trial which followed.

J. Buckley, of Buckeye, is a lumber inspector, so employed for 18 years. Is with the Marlinton Lumber Co. Had worked for the National Furniture Co. at Wheeling, and had been connected with the work of airplane construction in time of the world war, working for the government. Had no feeling of prejudice, and could return a verdict in accord with law and justice. Had not read of the shooting, but had read accounts of the trial at the January term of court. Was not unduly interested and had not discussed the present case with anyone.

Gilbert Wade, Minnehaha Springs, is a farmer, 37, and single. Not opposed to capital punishment, knew nothing of the charge against the men accused, and had no preconceived opinions, prejudice or bias. Felt he could give a fair and impartial verdict based on the evidence alone. Had not discussed the case with anyone, and felt that he could do exact justice between the state and the defendant at the bar. Had farmed practically all his life except some time spent in the lumber industry, in which he had served as manager for a producing company for three years. Did not remember of reading of the shooting, but had read accounts of the trial at the January

term.

Sandy Auldridge is 40 and a farmer and veterinarian. Never had any connection with the miners' union or the Baldwin-Felts detective agency. Had no prejudice against either. Had devoted himself exclusively to his farming and his veterinary work and paid little or no attention to the published accounts of the shooting in May of last year or of the trial at the January term of court. Had read the account of the shooting, but the impression received at the time had long since been effaced. Read the Pocahontas county papers and the Charleston Gazette. Not in any way connected with the coal interests. Had jury experience in his home county.

Uriah Kramer comes from Marlinton and is a concrete bridge worker. Knew nothing about unions or the Baldwin-Felts detective agency. Was not opposed to the extreme penalty. Had read newspaper accounts of the shooting and the trial following, but had formed no opinion nor become sensible of any bias. Not related to either of the defendants or to anyone else connected with the case. Had never been asked to join a union. Might have received some temporary impression from newspaper accounts, but if so it had entirely passed away. His brother, a farmer, had also come to Williamson as a juror. Had not discussed the merits of the case with anyone.

Fred Wade, 42, is a farmer living at Seebert. He is married. Said he had no connection with the United Mine Workers, any coal company or the Baldwin-Felts detectives. Felt he could weigh the evidence submitted and give a fair and impartial verdict. Owns his own farm. Formerly worked on a sawmill. Had read his county newspaper but it had carried no account of the shooting or the trial in January. Had no positive convictions on the subject of unionism, but believed any man should have the right to join a union if he so desired.

U. S. Gilmore lives near Woodrow. He is 46 years old, married, and a farmer and logging contractor. Said he had no feeling of bias in connection with the case, was not connected with any of the interests involved in the industrial trouble in Mingo county, and was not related to either Ferguson or Chambers or Burgraff. Had never belonged to a union. Was not opposed to capital punishment. Was "opposed to unionism as he heard of it in Pocahontas county," where he said a union had been formed by the woodcutters, but had fallen through.

Milfin Gilmore and Charles Ray were held tentively after a brief examination by the court. In the event of their being needed to complete the panel they will be examined by counsel. Gilmore is 34, and is a resident of Marlinton. He is common with Ray, who lives near Marlinton and is single, knew nothing of the case except as he had read of it in the newspapers and had formed no hard and fast opinions. Neither of the men is related to the defendants or to anyone else connected with the case.

Egbert W. LaRue, of Hillsboro, in the life insurance business. He is 24 years old and married. Said he was opposed to capital punishment, knew nothing except what he had read of the Matewan shooting in the newspapers, and had formed no undue opinion. Had read the headlines of the daily newspapers but in doing so had become sensible of no bias or prejudice. Had formerly been a clerk in the employ of the Warren Lumber Co. at Hillsboro.

W. A. Brill, of Cass, is 51, married, and a merchant. Had formed a strong opinion with regard to the Matewan shooting, and felt that it would take strong evidence to overcome that opinion. He would take that opinion into the jury box, he told the court, and hold to it until sufficient evidence had accumulated to outweigh it. His opinion had been formed from a reading of the newspapers and from what he had heard concerning the affair. He was excused.

A. W. Lightner, of Buckeye, is a blacksmith and married. Knew nothing about the United Mine Workers or the Baldwin-Felts detectives except what he read in the newspapers. Had lived all his life in Pocahontas county and never belonged to a labor union. Said he owned his shop. Had not changed his mind with any of the facts in the case at bar or of the indictments which followed it early in the year.

C. P. McNeill, married, lives at Buckeye, and is a farmer and truckman. Had no feeling against capital punishment where it was warranted by the evidence. Had read of the case at bar, or the incidents which brought it about, but had formed no opinion in the matter. Felt he could give a fair and impartial verdict in accord with the evidence. Had seen jury service before. Not related to one connected with the case.

I. B. Beard is a farmer, 46, living near Marlinton. He stated that he had no opinion, prejudice or bias in the case. Had heard of the shooting and other circumstances in connection with the troubles in Mingo county. Had read the New York World and the Pocahontas Times, but did not remember of reading of an account of the shooting. Declared he had a free and open mind and could render a verdict according to the evidence.

Paul Overholt stated that he is a merchant at Marlinton. Is 26 years old. He had talked with relatives of George Gunnoe, former Matewan school teacher, and in this way had formed some opinions regarding the Matewan shooting and the industrial

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troubles in this county. Said his opinions would require evidence to overcome, but that they could be affected by the testimony of witnesses.

Harry L. Byers, 28, a bank clerk at Marlinton, employed by the First National Bank, is married. Was not opposed to capital punishment, but had an opinion that could be changed by evidence. He had got his information from relatives who knew of conditions in Mingo county and who were at Matewan at the time of the shooting. He was excused from service.

T. S. Dulaney is 50 years old, married, a contractor, and lives at Woodrow. Said he knew nothing about unions and had no feelings in the matter. Knew nothing of the capital punishment. Had heard little or no discussion of the case, and when asked if he could go into the jury box and give a fair and impartial verdict, answered with an emphatic "Absolutely."

Page Sutton, of Hoesman, is married and a farmer. Had conscientious

scruples against capital punishment and felt that he could not join in a verdict sentencing a man to the gallows. Hence he was excused from service.

F. M. Sydnor, of Marlinton, buys and sells coal at the Pocahontas county seat. He said he had been nine years in the business. He said he bought coal in the Kanawha and New River fields, which are organized territory. He was temporarily excused.

Frank Moore, single, lives at Huntersville. Had no feeling for or against anyone connected with the Matewan trouble, and thought he could give a fair and impartial verdict. Had been in Pocahontas county practically all his life, but worked in the redwood forests of California. He is a lumberman.

Cecil Sheets, sawyer, lives near Marlinton, is 30 years and single. Had no prejudice and was not related to anyone concerned in the case at bar. Had no feeling for or against union labor.

Frank Rock, cook, married, Marlinton, had read of the Matewan case in the newspapers and to a certain extent might have formed and expressed an opinion. Was sensible of

no opinion in the case at bar as it affected Burgraff and Chambers, and could give a fair and impartial verdict.

John H. Beverage, 35, of Bartow, is a farmer, and member of a religious organization which does not believe in capital punishment. Thought the guilty should be punished, but felt that he could not meet the extreme penalty in the face of his religious beliefs. He was excused from service.

Emory Adkinson, Raywood, 41, is a lumber inspector. Had lived at a lumber practically all his life. Had read the daily newspapers but had formed no opinion regarding the merits of the case at bar. Had not discussed the case and felt that he could render a true verdict. He had never served as a juror except in a justice's court.

Sterling McElwee is a farmer living at Minnehaha Springs. He had read accounts of the Matewan shooting and of the Hatfield trial, but had no undue opinions and would carry no such opinions into the jury box. Had no feeling against the coal operators, the miners or the Baldwin-

(Continued on 4th page)